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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,117	12/31/2003	R. Kevin Ray	578340326192	9788

7590 06/27/2007  
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EXAMINER.

SMALLEY, JAMES N

ART UNIT	PAPER NUMBER
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3781

MAIL DATE	DELIVERY MODE
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06/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/750,117

Applicant(s)

RAY

Examiner

James N. Smalley

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 12/03; 3/04; 5/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yonkers US 4,333,203.

Yonkers '203 teaches a container (35) configured to house a chemical, a cap for sealing an opening (34), and a clip (22) which holds the container parallel to a spray lance.

3. Claims 1-5 and 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood et al. US Des. 316,389.

Wood '389 teaches a container for attachment to a bicycle comprising a bottle, an opening, and clips. Examiner notes Applicant refers to the instant prongs as "clips". Using this lexicon, Examiner notes Wood '389 thus teaches a total of 4 clips, 2 each comprising the attachment members as seen in figures 5-6. Furthermore, the preamble of claim 1 limits the device as being for coupling to a spray lance. Thus, the prior art must only be capable of being used in the intended manner, i.e. it must only be capable of coupling to a spray lance of a pressure washer. A spray lance can be generally cylindrical as a bicycle frame span, and thus the device of Wood '389 is held to be capable of being coupled to a spray lance. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

4. Claims 11-20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Brun, Jr. US 5,738,236.

Art Unit: 3781

Brun '236 teaches a container and a cap coupled to the container opening, whereby the cap comprises an inner cap with first and second openings, and an outer cap with an opening. The outer cap is rotatable through an angle comprising 90 degrees from the first opening to the second opening. In column 4, lines 11-18, the reference teaches the outer cap is aligned with opening (46) for filling, and is then rotated 45 degrees to seal the container. In column 4, lines 25-30, the reference teaches a user rotates the outer cap 45 degrees to align with opening (48) in order to drink from the container. Furthermore the container assembly is capable of being used in an inverted position (such as when a user is drinking from the container) and an upright position (such as when the container is being filled).

Regarding claim 15, the cap is capable of being used in the intended manner, i.e. it is capable of receiving a fluid conduit. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brun, Jr. US 5,738,236 in view of Wood et al. US Des. 316,389.

Brun '236 fails to teach an attachment mechanism to attach to a spray lance.

Wood '389 teaches a container for attachment to a bicycle, comprising two attachment clips.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the container of Brun '236, providing the attachment clips taught by Wood '389, motivated by the benefit of providing means to secure the drinking container to a bicycle so that a user could transport a beverage when riding the bicycle.

Art Unit: 3781

Furthermore, the preamble of claim 9 limits the device as being for coupling to a spray lance. Thus, the prior art must only be capable of being used in the intended manner, i.e. it must only be capable of coupling to a spray lance of a pressure washer. A spray lance can be generally cylindrical as a bicycle frame span, and thus the device of Wood '389 is held to be capable of being coupled to a spray lance. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Regarding claim 10, Examiner reads inner cap flange (36) as the projection which locks with annular ring (90) to secure with the container.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brun, Jr. US 5,738,236 in view of Miller et al. US 5,520,307.

Brun '236 fails to teach a projection extending outwardly from the outer cap and a recess on the inner cap member in order to inform a user when the cap is in one of the three operative positions. Instead, the reference teaches annular seals (40-44) on the inner cap which engage the outer cap opening. The seals appear to comprise thin layers of material and it appears there is the potential for a user to turn past the opening orientation.

Miller '307 teaches projections (34) on an outer cap (14) and recess (33) on an inner cap, for aligning openings in the inner and outer cap.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cap of Brun '236, providing an outwardly extending projection on the outer cap and a recess on the inner cap, as taught to be known by Miller '307, motivated by the benefit of providing secure means to position the outer cap relative to the inner cap.

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: See attached PTO-892 citing relevant references.

Art Unit: 3781

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James N. Smalley whose telephone number is (571) 272-4547. The examiner can normally be reached on Monday - Friday 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jns

 6/24/2007



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